

## **PUBLIC MEETING MINUTES**

June 8, 2006

PUBLIC EMPLOYMENT RELATIONS BOARD  
1031 18th Street  
Sacramento, CA 95814

Chairman Duncan called the meeting to order at 10:00 a.m.

### **Members Present**

John C. Duncan, Chairman  
Lilian S. Shek, Member  
Karen Neuwald, Member

### **Member Absent**

Sally M. McKeag, Member (Excused)

### **Staff Present**

Bob Thompson, General Counsel  
Fred D'Orazio, Chief Administrative Law Judge  
Eileen Potter, Chief Administrative Officer  
Les Chisholm, Regional Director

### **Call to Order**

Chairman Duncan called the Board to order for the continuous open session of the April 6, 2006, Board meeting. He reported that the Board met in continuous closed session to deliberate on cases pending on the Board's docket.

Since that open session in April, the Board has issued PERB Decision Nos. 1833, 1834, 1835-S, 1836-S, 1837-M, 1838-M, 1839-H, 1840-M, 1841-M, 1842-H, 1843-H, 1844, 1845, 1846-S and Administrative Appeal No. Ad-353-H. Also, PERB denied Injunctive Relief Request No. 502 (City & County of San Francisco v. Stationary Engineers Local 39). A document containing a listing of the aforementioned decisions was made available at today's meeting.

**Motion:** Motion by Member Shek and seconded by Member Neuwald to close the April 6, 2006, public meeting.

**Ayes:** Duncan, Shek, and Neuwald.

**Motion Carried.**

Chairman Duncan opened the meeting of June 8, 2006 and Member Neuwald led in the Pledge of Allegiance to the Flag.

### **Minutes**

**Motion:** Motion by Member Neuwald and seconded by Member Shek that the Board adopt the minutes of the Public Meeting of PERB for April 6, 2006.

**Ayes:** Duncan, Shek, and Neuwald.

**Motion Carried.**

Chairman Duncan announced that PERB will be holding its 30<sup>th</sup> Anniversary Conference on September 21, 2006 and encouraged all interested parties to make note of that date. Chairman Duncan indicated that the conference will be held in Sacramento and that Chief Administrative Law Judge Fred D’Orazio will elaborate further on the topic during his staff report today.

### **Comments From Public Participants**

None.

### **Staff Reports**

#### **a. Administrative Report**

Ms. Potter reported that the Budget Bill contained an appropriation of \$5,567,000 with 41 positions for PERB. The Bill passed through both budget subcommittees and is currently being considered by the Legislature.

Ms. Potter also reported that the Administration Division is busy completing this year’s fiscal year expenditure information into the accounting system in order to submit the year end financial statements by mid-July with as much accuracy as possible.

On May 11, 2006, PERB released its new on-line filing application for use by interested parties and PERB constituents. To date, there have been 71 new accounts activated and 17 unfair practice charges filed on-line.

#### **b. Legal Report**

General Counsel Bob Thompson reported that the regional attorney and litigation reports were distributed to the Board for their review. He reported that approximately 70 new unfair practice charges were being filed per month.

With respect to litigation, Mr. Thompson reported that a case was heard in the Santa Clara Superior Court where the judge declined to act in a request for a temporary restraining order based on a finding that PERB had the jurisdiction. PERB is anticipating receipt of the request for injunctive relief within the next couple of days.

Mr. Thompson also reported that PERB held an agency fee workshop in Sacramento on May 16, 2006. The workshop was well received by participants from the union side, employee side and also from a representative of the right to work group. All comments were well taken by PERB staff, and a synopsis of the meeting will be prepared for Board review by the General Counsel's office.

Chairman Duncan requested that Mr. Thompson give the Board an update on the status of the various Charter School litigation currently being presented before the National Labor Relations Board (NLRB). Mr. Thompson responded that there are currently three Charter School cases before PERB. In the Los Angeles Leadership Academy case, a hearing was held before an NLRB judge and the Regional Director in Region 31 issued a decision which found that the Charter School was outside the jurisdiction of the NLRB as a political subdivision of the State. The decision was appealed to the NLRB and a decision was issued in favor of the aforementioned decision. In addition, Mr. Thompson reported that two charter school cases are pending in Northern California, Region 32. Both cases were presented to the Regional Director and it was found that they were outside the jurisdiction of the NLRB as political subdivisions of the State. The Leadership Public Schools case is presently on appeal to the NLRB in Washington, D.C.

PERB is also anticipating receipt of an employer's appeal in the case of Education for Change and East Oakland Community Charter Teachers Association CTA/NEA and PERB, Case No. 32-RM-801. PERB will be preparing a brief in this case, which will be due by the end of June 2006. The NLRB will hear both cases together and PERB anticipates receiving a ruling on both sometime in July or August 2006.

Chairman Duncan requested that Mr. Thompson update the Board on King City Joint Union High School District v. PERB, Sixth District Court of Appeal No. H029420, PERB Decision No. 1777. Mr. Thompson responded that the case is under submission to the 6<sup>th</sup> District Court of Appeal, and at this time there is no ruling from the Court but the parties are meeting in an attempt to negotiate a resolution to the case.

Mr. Thompson further reported that a ruling is pending before a Siskiyou County Superior Court judge in the case of Siskiyou County Employees Association, Local 3899 of the American Federation of State, County and Municipal Employees v. County of Siskiyou, Docket No. 05-0050. He also reported that PERB received a favorable decision in the City of Richmond v. Firefighters case, and is waiting for a final order from the judge.

Mr. Thompson also reported that Jacqueline Buzo, office assistant in the PERB L.A. Regional Office, will be taking maternity leave on June 9, 2006 and may return by July 24, 2006. Brittany Feith will be replacing Jacqueline in her absence. In addition, a new attorney, Sean McKee, was hired to join the PERB L.A. Regional Office. Mr. McKee previously worked as an intern for PERB and with the National Labor Relations Board. He most recently worked with a union side law firm representing police officers in the Los Angeles area.

Chief Administrative Law Judge Fred D'Orazio reported that the administrative law judge report was distributed to the Board for review. He also gave a brief update on the development of PERB's 30 year Anniversary Conference to be held on September 21, 2006 at the California State Association of Counties' Conference Center. The day is planned to be structured with four panels, one covering charge processing and investigations, settlements, hearings and filing exceptions and appeals to the Board. There will be a PERB staff member moderating each panel and at least one union and management representative on each panel. Each panel will work from a fact pattern that PERB will create. Carol Vendrillo from the California Public Employee Reporter will be coordinating a panel discussion for the lunch hour of the conference. Her goal will be to contact many of the former PERB Board members and employees and have them talk about their past, present or future experiences with PERB. Ms. Vendrillo will also be providing many informative hand-outs.

c. Legislative Report

Sacramento Regional Director Les Chisholm reported that since the last public meeting in April, Assembly Bill 146, a bill to ratify a memorandum of understanding in State bargaining unit 2 (Attorneys), was approved and that legislation was chaptered. Mr. Chisholm stated that he continued to track legislation regarding Child Care Providers and the Agricultural Associations. At this time, Mr. Chisholm did not have any formal assessment on those two bills to share with the Board.

**Motion:** Motion by Member Shek and seconded by Member Neuwald that the Administrative, Legal Reports (including General Counsel and Chief Administrative Law Judge) and Legislative Reports be received.

**Ayes:** Duncan, Shek and Neuwald.

**Motion Carried.**

**Old Business**

None.

**New Business**

None.

**General Discussion**

There being no further business, the meeting is recessed to continuous closed session.

The Board will meet in continuous closed session each business day beginning immediately upon the recess of the open portion of this meeting through August 10, 2006 when the Board will reconvene in Room 103, Headquarters Office of the Public Employment Relations Board.

The purpose of these closed sessions will be to deliberate on cases listed on the Board's Docket (Gov. code sec. 11126(c)(3)), personnel (Gov. Code sec. 11126(a)), pending litigation (Gov. Code sec. 11126(e)(1)), and any pending requests for injunctive relief (Gov. Code sec. 11126(e)(2)(c)).

**Motion:** Motion by Member Neuwald and seconded by Member Shek that there being no further business, the meeting be recessed to continuous closed session.

**Ayes:** Duncan, Shek and Neuwald.

**Motion Carried.**

Respectfully submitted,

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Chris Wong, Executive Assistant

APPROVED AT THE PUBLIC MEETING OF:

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John C. Duncan, Chairman